

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lianne May	Team: Squad #7	CCRB Case #: 202104639	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/04/2021 1:10 AM	Location of Incident: [REDACTED]	Precinct: 42	18 Mo. SOL 2/4/2023	EO SOL 2/4/2023	
Date/Time CV Reported Thu, 08/05/2021 10:03 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 08/05/2021 10:03 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Benitez	31467	964919	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Jaquez	13354	966287	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Benitez	Discourtesy: Police Officer Jonathan Benitez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Jonathan Benitez	Discourtesy: Police Officer Jonathan Benitez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Jonathan Benitez	Discourtesy: Police Officer Jonathan Benitez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Jonathan Benitez	Off. Language: Police Officer Jonathan Benitez made remarks to § 87(2)(b) [REDACTED] based upon the gender of § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On August 5, 2021, § 87(2)(b) called the CCRB to report the following complaint (BR1).

§ 87(2)(b)'s mother and brother, § 87(2)(b) and § 87(2)(b) live at 1010 East 173rd Street in Apartment 5M in the Bronx. At approximately 1:10AM on August 4, 2021, § 87(2)(b) was in § 87(2)(b)'s and § 87(2)(b)'s apartment. § 87(2)(b) was having a dispute with § 87(2)(b) and § 87(2)(b) texted her cousin, Sydney McGann, who was not in the apartment to call 911 on her behalf. § 87(2)(b), § 87(2)(b) and § 87(2)(b) all called 911. Police Officer Jonathan Benitez and Police Officer Brian Jaquez, both of the 42 Precinct, responded. PO Benitez spoke to § 87(2)(b) and § 87(2)(b) and PO Jaquez spoke to § 87(2)(b). In a private conversation, PO Benitez told PO Jaquez that § 87(2)(b) wanted § 87(2)(b) to "clean her shit up" (**Allegation A: Discourtesy**, § 87(2)(g)). § 87(2)(b) alleged that PO Benitez then started yelling at § 87(2)(b) stating, "go get your shit" (**Allegation B: Discourtesy**, § 87(2)(g)). § 87(2)(b) alleged that when PO Benitez left the apartment building, he told her, "have a good night sweetheart" (**Allegations C: Discourtesy**, § 87(2)(g); **Allegation D: Offensive Language**, § 87(2)(g)).

The investigation received body-worn camera (BWC) from PO Jaquez (BR2) and PO Benitez (BR3).

Findings and Recommendations

Allegation A-Discourtesy: Police Officer Jonathan Benitez spoke discourteously to § 87(2)(b).

Allegation B- Discourtesy: Police Officer Jonathan Benitez spoke discourteously to § 87(2)(b).

Allegation C- Discourtesy: Police Officer Jonathan Benitez spoke discourteously to § 87(2)(b).

Allegation D- Offensive Language: Police Officer Jonathan Benitez made remarks to § 87(2)(b) based upon the gender of § 87(2)(b).

Beginning around 12AM-12:30AM on August 4, 2021, § 87(2)(b) was in § 87(2)(b)'s and § 87(2)(b)'s apartment at § 87(2)(b) in the Bronx. § 87(2)(b) and § 87(2)(b) began to have a verbal dispute. A few minutes after 12:30AM, § 87(2)(b) texted § 87(2)(b) who was not in the apartment to call 911 on her behalf. When § 87(2)(b) was getting dressed to leave, § 87(2)(b) arrived and told § 87(2)(b) to get out of the apartment. § 87(2)(b) called 911 on § 87(2)(b) and told the dispatcher, "there is somebody on my house and they are very violent, and I need them out." § 87(2)(b) swung a fire extinguisher at § 87(2)(b) and tried to spray her with it while § 87(2)(b) and § 87(2)(b) were yelling at each other. § 87(2)(b) ran from the apartment into the hallway and called 911 twice between 1AM and 1:30AM (BR4).

EVENT #§ 87(2)(b) documents all the 911 calls beginning at 12:33AM. § 87(2)(b) called to state that § 87(2)(b) is pregnant, and her mother is abusive. § 87(2)(b) called to say that § 87(2)(b) is his sibling and wants her out of the apartment. § 87(2)(b) called to allege that § 87(2)(b) hit her (BR5).

§ 87(2)(b) explained that when the police arrived, she and § 87(2)(b) were still arguing about § 87(2)(b) trying to hit her. § 87(2)(b) did not hear what PO Benitez was saying to § 87(2)(b) and § 87(2)(b) in the apartment while PO Jaquez spoke to her in a stairwell. When PO Benitez came out of the apartment after talking to § 87(2)(b) and § 87(2)(b) he pulled PO Jaquez aside and said, "she's § 87(2)(b) been staying here and she doesn't even want to clean her shit up. That's why her mom is kicking her out." § 87(2)(b) alleged that PO Benitez then

started yelling at § 87(2)(b) stating, “go get your shit. Why are you still even here talking to them?” § 87(2)(b) told PO Benitez and PO Jaquez it took too long for them to come. PO Benitez then said, “if you have a problem, next time don’t call us then” (BR4).

PO Benitez explained that he and PO Jaquez received a radio run for a family dispute at 1:10AM and arrived at 1:51AM. They entered the building and went to the fifth floor where they saw § 87(2)(b) yelling and cursing at people in an apartment. PO Jaquez went to talk to § 87(2)(b) and PO Benitez spoke to § 87(2)(b) and § 87(2)(b) in the apartment. There was a lot of commotion with § 87(2)(b) and § 87(2)(b) continually yelling and cursing at each other irately (BR6).

PO Benitez explained § 87(2)(b) told him § 87(2)(b) had been staying there for a few days and was not obeying his house rules, so he wanted her to leave. § 87(2)(b) lived in Brooklyn. § 87(2)(b) had put her items in the hallway but would not leave. PO Benitez did not hear what PO Jaquez said to § 87(2)(b). To PO Benitez, it was clear that she needed to leave because she did not live there (BR6).

Throughout PO Benitez’s BWC (BR3), § 87(2)(b) curses at officers and her family. For example, at 05:50, she tells § 87(2)(b) that she “wants none of this shit” while § 87(2)(b) tells her to take her belongings and leave. From 6:00-07:15, § 87(2)(b) uses profanity and obscenities against her family multiple times by calling them “bitch” and “faggot” while telling them to “shut the fuck up” and “suck my dick.”

After watching his BWC from 6:55-7:15 (BR3), PO Benitez acknowledged in his CCRB interview that he was telling PO Jaquez that § 87(2)(b) wanted § 87(2)(b) to “clean her shit up” but attempted to do this privately. PO Benitez’s BWC from 7:20-7:40 shows PO Benitez telling § 87(2)(b) to leave and § 87(2)(b) tells them they took too long to get there. PO Benitez said she does not have to call them next time but uses no other profanity.

PO Benitez explained that he reconvened with PO Jaquez down the hallway and told him § 87(2)(b) did not want § 87(2)(b) there. PO Benitez wanted to talk to his partner privately because he did not want to escalate the situation by talking about the situation in front of § 87(2)(b). PO Benitez’s intention to walk down the hall was to make sure that § 87(2)(b) and § 87(2)(b) could not hear him. He used profanity because it was a private conversation between officers and was also repeating the words that § 87(2)(b) and § 87(2)(b) had used. PO Benitez then realized she could hear him because she repeated his words and reacted to his private statements to PO Jaquez. PO Benitez denied ever telling § 87(2)(b) to “go get her shit” (BR6).

§ 87(2)(b) explained that she then left to go downstairs and go home. As she was waiting for a Lyft for about 5 minutes, the officers walked past her to their marked SUV. PO Benitez said, “have a good night, sweetheart” (BR4).

PO Benitez testified that he did not see her sitting outside of the building. PO Benitez therefore did not talk to her outside or say, “have a good night, sweetheart.” He may use “sweetheart” to a child victim, but not with adults (BR6).

PO Benitez’s and PO Jaquez’s BWC does not record when they leave the apartment (BR3; BR2).

DAO-DCT Disciplinary Case No. 2017-17005 states that in prior disciplinary cases, the NYPD has held that the use of profane remarks during stressful situations or while an officer is trying to get a chaotic situation under control, does not constitute misconduct (BR7).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR8).
- Police Officer Jonathan Benitez has been a member of service for three years and has been a subject in one CCRB complaint and one allegation, none of which were substantiated.

§ 87(2)(g) (BR9).

Mediation, Civil, and Criminal Histories

- As of September 20, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR10).
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED] (BR11).

Squad: 7

Investigator: Lianne May Investigator Lianne May October 8, 2021
Signature Print Title & Name Date

Squad Leader: _____

Signature _____

Manager Vanessa Rosen _____

Print Title & Name _____

October 12, 2021 _____

Date _____

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____